

ORDINANCE _____

AN ORDINANCE relating to land use and zoning and to uses in the City's street rights-of-way, providing for a permitting and approval system for monorail transit facilities as may be proposed by a city transportation authority; amending Seattle Municipal Code sections 23.41.004, 23.47.012, 23.49.011, 23.50.028, 23.76.004, 23.80.004, 23.84.010, 23.84.025, 23.84.038; and adding a new chapter 15.54 to the Seattle Municipal Code.

WHEREAS, in 2002, the Washington State Legislature enacted 2002 Washington Laws, ch. 248 (which was primarily codified as RCW Chapter 35.95A) to allow voters to create a "city transportation authority," a municipal corporation that would have the power to plan, construct, and operate a monorail transportation system; and

WHEREAS, in July 2002, the City of Seattle expressed its intent in Resolution 30486 to facilitate fast, coordinated, cost-effective construction of a Seattle monorail system, including expedited review and approvals; and

WHEREAS, on November 5, 2002, Seattle voters passed Seattle Citizen Petition No. 1, creating the Seattle Popular Monorail Authority (known as the "Seattle Monorail Project") pursuant to RCW Chapter 35.95A, requiring the Seattle Monorail Project to adopt the Seattle Popular Monorail Plan, and approving local funding for implementation of Phase One of the Seattle Popular Monorail Plan; and

WHEREAS, the City of Seattle enacted Ordinance No. 121134 in April 2003 authorizing execution of an Agreement for Intergovernmental Cooperation between the City and the Seattle Monorail Project, in which the City and the Seattle Monorail Project recognized that the monorail transit facilities constituting Phase One of the Seattle Popular Monorail Plan are an essential public facility within the meaning of the state Growth Management Act and that the timely and cost-effective construction of Phase One may require some changes to City development regulations so that they incorporate monorail transit facilities; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection C of Section 23.41.004 of the Seattle Municipal Code, which section was last amended by Ordinance 120928, is amended as follows:

23.41.004 Applicability.

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C. Exemptions. The following structures are exempt from design review:

1 1. New structures located within special review districts, as regulated by Chapter
2 23.66;

3 2. New structures within Landmark districts as regulated by SMC Title 25,
4 Environmental Protection and Historic Preservation;

5 3. New structures that are within the historic character area of the Downtown
6 Harborfront 1 zone, as regulated by Section 23.60.704, or are otherwise required to undergo
7 shoreline design review as regulated by Chapter 23.60; and

8 4. New monorail transit facilities that have been subject to review by the Seattle
9 Design Commission.

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11 Section 2. Subsection D of Section 23.47.012 of the Seattle Municipal Code, which
12 section was last amended by Ordinance 121051, is amended as follows:

13 **23.47.012 Structure height and floor area ratio.**

14 * * *

15 D. Exemptions from FAR Calculations. The following areas shall be exempted from
16 FAR calculations:

- 17 1. All gross floor area below grade;
18 2. All gross floor area used for accessory parking(-); and
19 3. All gross floor area of a monorail station, including all floor area open to the
20 general public during normal hours of station operation (but excluding retail or service
21 establishments to which public access is limited to customers or clients, even where such
22 establishments are primarily intended to serve monorail riders.)

23 * * *

24 Section 3. Subsection B of Section 23.49.011 of the Seattle Municipal Code, which
25 section was last amended by Ordinance 120443, is amended as follows:

26 **23.49.011 Floor area ratio.**

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B. Exemptions and Deductions from FAR Calculations.

1. The following are not included in chargeable floor area, except as specified below in this section:

a. Retail sales and service uses and entertainment use in the DRC zone up to a maximum FAR of two (2);

b. Street level uses meeting the requirements of Section 23.49.025, Street-level use requirements, whether or not street-level use is required pursuant to Map 1H, if the uses and structure also satisfy the following standards:

(1) The street level of the structure containing the exempt space must have a minimum floor to floor height of thirteen (13) feet;

(2) The street level of the structure containing the exempt space must have a minimum depth of fifteen (15) feet;

(3) Overhead weather protection is provided satisfying the provisions of 23.49.025B5.

c. In the DRC zone, shopping corridors and retail atriums;

d. Child care;

e. Human service use;

f. Residential use, except in the PMM and DH2 zones;

g. Museums;

h. Performing arts theaters;

i. Floor area below grade;

j. Floor area that is used only for short-term parking or parking accessory to residential uses, or both, subject to a limit on floor area used wholly or in part as parking accessory to residential uses of one (1) parking space for each dwelling unit on the lot with the residential use served by the parking; ~~((and))~~

k. Floor area of a public benefit feature that would be eligible for a bonus on the lot where the feature is located. The exemption applies regardless of whether a floor area bonus is obtained, and regardless of maximum bonusable area limitations;

l. Public restrooms(-); and

m. All gross floor area of a monorail station, including all floor area open to the general public during normal hours of station operation (but excluding retail or service establishments to which public access is limited to customers or clients, even where such establishments are primarily intended to serve monorail riders.)

2. As an allowance for mechanical equipment, three and one-half (3½) percent of the gross floor area of a structure shall be deducted in computing chargeable gross floor area. The allowance shall be calculated on the gross floor area after all exempt space permitted under subsection B1, or B3 if applicable, has been deducted. Mechanical equipment located on the roof of a structure, whether enclosed or not, shall be calculated as part of the total gross floor area of the structure, except that for structures existing prior to June 1, 1989, new or replacement mechanical equipment may be placed on the roof and will not be counted in gross floor area calculations.

3. In lieu of the exemptions allowed in subsection B1 of this section, an applicant may elect in writing, at the time of filing of an original master use permit application that involves the proposed addition or change of use of floor area on any lot wholly within a DMC zone on which no bonus floor area has been or is proposed to be gained under Section 23.49.012 or Section 23.49.013, that the following areas on such lot shall be exempt from base and maximum FAR calculations:

a. All gross floor area in residential use, except on lots from which development rights have been or are transferred;

b. All gross floor area below grade;

c. All gross floor area used for accessory parking;

d. The gross floor area of public benefit((-)) features, other than housing, that satisfy the requirements of Section 23.49.126, ratios for public benefit features, or that satisfy the requirements for a FAR bonus amenity allowable to a structure in a DOC1 or DOC2 zone for an off-site public benefit feature, and, in either case, satisfy the Public Benefit Features Rule, whether granted a floor area bonus or not, regardless of the maximum bonusable area limitation.

Section 4. Subsection E of Section 23.50.028 of the Seattle Municipal Code, which section was last amended by Ordinance 119370, is amended as follows:

23.50.028 Floor area ratio.

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E. All Industrial Zones, Exemptions from FAR Calculations. The following areas shall be exempt from FAR calculations:

1. All gross floor area below grade;
2. All gross floor area used for accessory parking;
3. All gross floor area used for mechanical equipment, stair and elevator penthouses and communication equipment and antennas located on the rooftop of structures;
4. All gross floor area uses for covered rooftop recreational space of a building existing as of December 31, 1998, when complying with the provisions of Section 23.50.012 D((-));

5. All gross floor area of a monorail station, including all floor area open to the general public during normal hours of station operation (but excluding retail or service establishments to which public access is limited to customers or clients, even where such establishments are primarily intended to serve monorail riders.)

Section 5. Chart A of Section 23.76.004 of the Seattle Municipal Code, which section was last amended by Ordinance 119974, is amended as follows:

**Exhibit 23.76.004A
LAND USE DECISION FRAMEWORK**

**DIRECTOR'S AND HEARING EXAMINER'S
DECISIONS REQUIRING MASTER USE PERMITS**

TYPE I Director's Decision (No Administrative Appeal)	TYPE II Director's Decision (Appealable to Hearing Examiner*)	TYPE III Hearing Examiner's Decision (No Administrative Appeal)
<ul style="list-style-type: none"> • Compliance with development standards • Uses permitted outright • Temporary uses, four weeks or less • Certain street uses • Lot boundary adjustments • Modifications of features bonused under Title 24 • Determinations of significance (EIS required) except for determinations of significance based solely on historic and cultural preservation • Temporary uses, twelve months or less, for relocation of police and fire protection • Exemptions from 	<ul style="list-style-type: none"> • Temporary uses, more than four weeks • Variances • Administrative conditional uses • Shoreline decisions (*appealable to Shorelines Hearings Board along with all related environmental appeals) • Short subdivisions • Special exceptions • Design review • Northgate General Development Plan • Light rail transit facilities • <u>Monorail transit facilities</u> • The following environmental determinations: <ol style="list-style-type: none"> 1. Determination of nonsignificance (EIS not required) 2. Determination of final EIS 	<ul style="list-style-type: none"> • Subdivision (preliminary plats)

right-of-way improvement requirements <ul style="list-style-type: none"> • Special accommodation • Reasonable accommodation • Minor amendment to a Major Phased Development Permit 	adequacy 3. Determination of significance based solely on historic and cultural preservation 4. A decision by the Director to approve, condition or deny a project based on SEPA Policies 5. A decision by the Director that a project is consistent with a Planned Action Ordinance and EIS (no threshold determination or EIS required) <ul style="list-style-type: none"> • Major Phased Development 	
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COUNCIL LAND USE DECISIONS

TYPE IV (Quasi-Judicial)	TYPE V (Legislative)
<ul style="list-style-type: none"> • Land use map amendments (Rezones) • Public project approvals • Major Institution master plans • Council conditional uses • Downtown planned community developments 	<ul style="list-style-type: none"> • Land Use Code text amendments • Rezones to implement new City Policies • Concept approval for City facilities • Major Institution designations • Waive or modify development standards for City facilities • Planned Action Ordinance

Section 6. Section 23.80.004 of the Seattle Municipal Code, which section was last amended by Ordinance 119974, is amended to add a new subsection D to read as follows:

23.80.004 Review criteria.

* * *

D. Monorail transit facilities.

1. Monorail transit facilities necessary to support the operation and maintenance of a monorail transit system are permitted in all zones within the City of Seattle.

2. The Director may approve a monorail transit facility, pursuant to SMC 23.76, Master Use Permits and Council Land Use Decisions, only if the monorail guideway alignment, monorail transit station locations, and monorail operations center location of the monorail transit system have been approved by the City Council by ordinance or resolution.

3. The Director shall review for approval all monorail transit facilities, except monorail guideways, which must be reviewed for approval by the Director of Transportation pursuant to Title 15 of the Seattle Municipal Code, provided that for any monorail transit facility or portion thereof subject to review pursuant to SMC Chapter 23.60, the Director shall conduct the review required by that chapter.

4. A Master Use Permit is not required for minor alterations of monorail transit facilities involving no material expansion or change of use, and other minor new construction at monorail transit facilities that, in the determination of the Director, is not likely to have significant adverse impacts on surrounding properties.

5. Where necessary to achieve consistency with the terms of the Council's approval of the monorail transit system, development standards, including but not limited to, height, setbacks, yards, landscaping, or lot coverage, may be waived or modified, provided that height of monorail transit stations shall not exceed sixty-five feet (65') or the height limit in the underlying zone, whichever is greater. The Director may impose reasonable conditions pursuant to SMC Chapter 25.05, to lessen identified impacts caused by the monorail transit facilities on surrounding properties, or to ensure consistency with any design guidelines to be developed by the City and the city transportation authority and applicable to the proposed monorail transit system.

Section 7. The definition of “essential public facilities” in Section 23.84.010 of the Seattle Municipal Code, which section was last amended by Ordinance 121145, is amended as follows:

23.84.010 “E.”

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“Essential public facilities” means airports, sewage treatment plants, jails, light rail transit systems, monorail transit systems, and power plants.

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Section 8. Section 23.84.025 of the Seattle Municipal Code, which section was last amended by Ordinance 120443, is amended by adding the following definitions:

23.84.025 “M.”

* * *

“Monorail guideway” means the beams, with their foundations and all supporting columns and structures, including incidental elements for access and safety, along which a city transportation authority monorail train runs.

“Monorail transit facility” means a structure, guideway, equipment, or other improvement of a monorail transit system, including but not limited to monorail transit stations and related passenger amenities, power substations, maintenance and/or operations centers.

“Monorail transit station” means a monorail transit facility, whether at grade or above grade, that provides pedestrian access to monorail transit trains and facilitates transfer from monorail to other modes of transportation. A monorail transit station may include mechanical devices such as elevators and escalators to move passengers, and may also include such passenger amenities as informational signage, seating, weather protection, fountains, artwork or concessions.

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Section 10. A new chapter 15.54, Monorail Guideways, is hereby added to the Seattle Municipal Code, to read as follows:

Chapter 15.54

MONORAIL GUIDEWAYS

15.54.010 Definitions.

The terms “Monorail Guideway,” “Monorail Transit Facilities,” “Monorail Transit Stations,” and “Monorail Transit System” shall have the same meaning as the definitions of those terms in Section 23.84.025.

15.54.020 Approval of a Monorail Guideway.

A. Any city transportation authority desiring to construct a monorail transit guideway in City right-of-way or city transportation authority right-of-way (even where such rights-of-way may consist only of aerial easements) shall obtain the approval of the Director of Transportation of final construction plans before commencing any such work.

B. The Director of Transportation may approve a monorail guideway only if the monorail guideway alignment has been approved by the City Council by ordinance or resolution.

C. A monorail guideway, along an alignment approved by the City Council by ordinance or resolution, may exceed the height limit in any underlying zone pursuant to Title 23 of this Code whenever necessary to achieve consistency with the terms of the Council’s approval of the monorail transit system.

D. Nothing in this chapter shall prevent the City from granting further rights to, or imposing further conditions upon, a city transportation authority's use of the City's streets or rights-of-way pursuant to a non-exclusive transit-way agreement for use of said streets or rights-of-way.

Section 11. The provisions of this ordinance are declared to be separate and severable. The invalidity of any particular provision shall not affect the validity of any other provision.

Section 12. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2003, and signed by me in open session in authentication of its passage this ____ day of _____, 2003.

President _____ of the City Council

Approved by me this ____ day of _____, 2003.

Gregory J. Nickels, Mayor

Filed by me this ____ day of _____, 2003.

City Clerk

(Seal)